



COMMONWEALTH OF MASSACHUSETTS  
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August 2, 2010

Curt Spalding  
Regional Administrator  
US Environmental Protection Agency - Region I  
5 Post Office Square - Suite 100  
Boston, Massachusetts 02109-3912

Dear Mr. Spalding:

I am pleased to respond to EPA's request for information contained in the final Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, published in the Federal Register on June 3, 2010. Since Massachusetts does not currently have a SIP-approved PSD program, this response is limited to the federally approved Part 70 Operating Permit program, codified at 310 CMR 7.00: Appendix C Operating Permit and Compliance Program.

While the Department of Environmental Protection (MassDEP) regulates greenhouse gases (GHG) under some of our regulations such as 310 CMR 7.29, the regional greenhouse gas initiative, and engines and turbines under our environmental results program, GHGs are not currently a regulated pollutant as defined in our federal operating permit program regulations<sup>1</sup>; therefore, the operating permit program currently does not include GHG. First, the regulatory provisions of 310 CMR 7.00 Appendix C cannot be interpreted to include the term "regulated air pollutant" to include pollutants "subject to regulation" as defined in the Tailoring Rule.

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<sup>1</sup> Regulated Air Pollutant is defined as:

- (a) Nitrogen oxides or any volatile organic compound;
- (b) Any pollutant for which a national ambient air quality standard has been promulgated;
- (c) Any pollutant that is subject to any standard promulgated under 42 U.S.C. 7401, The Clean Air Act, § 111, New Source Performance Standard 40 CFR Part 60;
- (d) Any Class I or II substance subject to a standard promulgated under or established by 42 U.S.C. 7401, Title VI; or
- (e) Any pollutant subject to a standard promulgated under 42 U.S.C. 7401, The Clean Air Act, § 112, National Emissions Standards for Hazardous Air Pollutants, 40 CFR Part 61, or other requirements established under 42 U.S.C. 7401, The Clean Air Act, § 112, including §§ 112(g), (j), and (r), including the following:
  - 1. Any pollutant subject to requirements under 42 U.S.C. 7401, § 112(j). If the EPA fails to promulgate a standard by the date established pursuant to 42 U.S.C. 7401, The Clean Air Act, § 112(e), any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to 42 U.S.C. 7401, The Clean Air Act, § 112(e); and
  - 2. Any pollutant for which the requirements of 42 U.S.C. 7401, § 112(g)(2) have been met, but only with respect to the individual source subject to 42 U.S.C. 7401, § 112(g)(2) requirement. (310 CMR 7.00 Appendix C(1))

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Second, the applicability provisions of the federally approved MassDEP Part 70 operating permit program do not currently establish pollutant-specific numeric emissions thresholds for GHG.

(a) 310 CMR 7.00: Appendix C applies to any facility which:

(1) emits or has federal potential emissions, in the aggregate, of any regulated air pollutant in an amount which equals or exceeds: 50 tons per year of VOC or NO<sub>x</sub>, ten tons per year of any hazardous air pollutant (HAP) subject to 42 U.S.C. 7401, § 112, 25 tons per year of any combination of HAPs, or 100 tons per year of any other regulated air pollutant; ... (310 CMR 7.00: Appendix C(2))

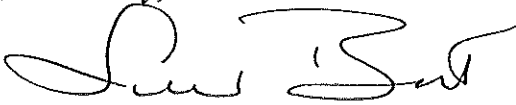
Therefore, to comply with EPA's final regulation, MassDEP intends to adopt EPA's requirements for Title V permitting for facilities with GHG emissions. In order to extend the applicability provisions of 310 CMR 7.00 Appendix C to GHGs consistent with the Tailoring Rule thresholds, MassDEP will amend the regulations to include a numerical threshold or multiple thresholds in the applicability section that has, or has the effect of, including a facility with the potential to emit 100,000 tons per year GHGs expressed as CO<sub>2</sub> equivalent.

MassDEP believes there are no statutory changes needed to make such changes.

As resources and priorities allow, MassDEP will develop regulation language and supporting documentation for public review and comment during the first half of calendar year 2011.

Should you or your staff have any questions regarding this submittal or wish any further information, please contact Nancy L. Seidman, Deputy Assistant Commissioner for Climate Strategies, at 617-556-1020.

Sincerely,



Laurie Burt  
Commissioner

Enclosures

cc: David Conroy, US EPA, Region I  
Ida McDonnell, US EPA, Region I  
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